

# NEW APPLICATION



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BEFORE THE ARIZONA CORPORATION COMMISSION

ORIGINAL

## COMMISSIONERS

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AZ CORP COMMISSION  
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IN THE MATTER OF THE APPLICATION OF  
WWC LICENSE LLC ("WESTERN WIRELESS  
CORPORATION") FOR DESIGNATION AS AN  
ELIGIBLE TELECOMMUNICATIONS CARRIER  
AND REDEFINITION OF RURAL TELEPHONE  
COMPANY SERVICE AREA.

Arizona Corporation Commission

DOCKETED

MAR 26 2004

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Docket No. T- 04248A-04-0239

**VERIFIED APPLICATION OF WWC  
LICENSE LLC FOR DESIGNATION  
AS AN ELIGIBLE  
TELECOMMUNICATIONS  
CARRIER**

- AND -

**PETITION FOR REDEFINITION OF  
THE SERVICE AREA FOR  
CERTAIN RURAL TELEPHONE  
COMPANIES**

1. WWC License LLC dba CellularOne© ("Western Wireless") hereby applies to be designated as an eligible telecommunications carrier ("ETC") for purposes of qualifying to obtain federal universal service support in the service areas of certain rural and non-rural telephone companies. This Application seeks an order immediately designating Western Wireless as an ETC in the study areas of the rural telephone companies and non-rural wire centers listed on Attachment A pursuant to 47 U.S.C. § 214(e). In addition, this Application seeks an order conditionally designating Western Wireless as an ETC in the rural telephone company wire centers listed in Attachment B. In order to effectuate the Commission's designation of Western Wireless as an ETC in the rural telephone company wire centers listed on Attachment B, and as a condition thereto, the Commission should redefine the service area for the area served by Verizon California, Inc. ("Verizon") from the study area to the wire center level, consistent with the purposes of 47 C.F.R. § 54.207.

1           2.       This Application is made pursuant to and based upon 47 U.S.C. § 214(e).

2           3.       Section 214(e) of the federal Telecommunications Act of 1996 ("Act") and the rules  
3 and regulations of the FCC, specifically 47 C.F.R. § 54.101(a)(1), establish the mandatory and  
4 exclusive criteria for designation as a federal ETC in Arizona. This Application affirms and  
5 demonstrates that Western Wireless meets all applicable requirements and is entitled to be  
6 designated an ETC.

7           4.       Western Wireless' request for ETC designation in the rural telephone company wire  
8 centers listed on Attachment B is subject to the further condition that the Commission redefine the  
9 service area for the area served by Verizon from the study area to the wire center level, pursuant to  
10 47 C.F.R. § 54.207(a). Western Wireless asks the Commission to conditionally designate Western  
11 Wireless as an ETC in those newly redefined service areas, subject to approval of the redefinition  
12 by the Federal Communications Commission ("FCC") under 47 C.F.R. § 54.207(c) to effectuate  
13 Western Wireless' designation.

14       **I.       GENERAL BACKGROUND**

15           5.       Since 1992, Western Wireless, through its subsidiaries (including WWC License  
16 LLC), has provided telecommunications services to rural communities in the western United States.  
17 Western Wireless currently provides commercial mobile radio services ("CMRS") under the  
18 "CellularOne" national brand name to more than 1.2 million subscribers in 19 States west of the  
19 Mississippi River. The Company owns cellular licenses covering approximately thirty percent  
20 (30%) of the land and two percent (2%) of the population of the continental United States. In terms  
21 of population served, the Western Wireless network covers approximately nine million people.  
22 The Company's service area has a population density of approximately 11 people per square mile.  
23 As such, Western Wireless is uniquely situated to provide state-of-the-art telecommunications  
24 service to rural consumers.

25           6.       The FCC has regulatory jurisdiction over Western Wireless' provision of CMRS  
26 services in all States in which it provides services. The services provided by Western Wireless in  
27 Arizona include mobile telephony, data/facsimile, 911, voice mail, and other features and services.

WWC License LLC is the non-wireline FCC licensee in the following cellular license areas in Arizona: the northern portion of Arizona RSA-1 and Arizona RSA-4.

7. Western Wireless provides cellular service in Arizona and currently serves customers in the following Arizona counties: La Paz, Mohave, and Yuma.

## II. WESTERN WIRELESS MEETS ALL ETC REQUIREMENTS FOR DESIGNATION AS AN ETC

8. Under 47 U.S.C. § 214(e)(2) and Ariz. Rev. Stat. § 40-202, the Commission has the jurisdiction and authority to designate Western Wireless as an ETC in its designated areas. The requirements for ETC designation are set forth in 47 U.S.C. § 214(e)(1)-(2) and 47 C.F.R. § 54.101. As explained below, Western Wireless is a common carrier, provides the required supported services, and will meet all service and advertising obligations of an ETC. In addition, Western Wireless' ETC designation serves the public interest.

### A. Western Wireless is a Common Carrier

9. The first requirement for ETC designation is that the applicant is a common carrier. 47 U.S.C. §§ 214(e)(1) and 153(10). As a CMRS provider, Western Wireless is a common carrier under federal law. *See also* 47 C.F.R. § 20.9(a)(7).

### B. Western Wireless Offers the Supported Services

10. The second requirement for ETC designation is that the applicant provide the services or functionalities set forth in 47 C.F.R. § 54.101(a)(1)-(9) throughout the requested designated service areas. 47 U.S.C. § 214(e)(1)(A). Western Wireless currently offers and is able to provide the services and functionalities identified by the FCC in 47 C.F.R. § 54.101(a)(1)-(9). In its *Universal Service Order* implementing Sections 214(e) and 254, the FCC identified the specific services that a carrier must provide to be designated as an ETC and receive universal service support. *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45

Report and Order (rel. May 8, 1997) ("*Universal Service Order*") The required services are as follows:

Supported Service	Does Western Wireless currently provide the service or function
1. Voice-grade access to the public switched network	Y
2. Local Usage	Y
3. Dual tone multi-frequency (DTMF) signaling or its functional equivalent	Y
4. Single-party service or its functional equivalent	Y
5. Access to emergency services	Y
6. Access to operator services	Y
7. Access to interexchange service	Y
8. Access to directory assistance	Y
9. Toll blocking for qualifying Lifeline customers	Y

11. Western Wireless currently provides the nine supported services set forth in 47 C.F.R. § 54.101(a)(1)-(9) over its existing network infrastructure in Arizona as follows:

a. Voice-grade access to the public switched telephone network. Voice-grade access means the ability to make and receive phone calls within a voice frequency range of between 300 and 3500 Hertz, a bandwidth of approximately 2700 Hertz. *See Universal Service Fourth Order on Reconsideration*, FCC 97-420 (rel. Dec. 30, 1997). Through its interconnection arrangements with local telephone companies, including Qwest, all Arizona customers of Western Wireless are able to make and receive calls on the public switched network within the prescribed frequency range.

1           b.     Local usage.     Western Wireless provides its customers with an amount of local  
2 usage, free of charge, as required by 47 C.F.R. § 54.101(a)(2). Unlimited local usage is not  
3 required of any ETC. *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket  
4 96-45, Order and Order on Reconsideration, FCC 03-170, (rel. July 14, 2003) (“*July 2003 Order*”).  
5 Western Wireless will include varying amounts of local usage in all of its universal service  
6 offerings. In addition, Western Wireless will comply with any and all specific local usage  
7 requirements adopted by the FCC in the future and required of federal ETCs.  
8

9           c.     Dual-tone, multi-frequency (“DTMF”) signaling, or its functional equivalent.  
10 DTMF is a method of signaling that facilitates the transportation of call set-up and call detail  
11 information. 47 C.F.R. § 54.101(a)(3); *Universal Service Order*, ¶ 71. The FCC recognized that  
12 “wireless carriers use out-of-band digital signaling mechanisms . . . . [I]t is appropriate to support  
13 out-of-band signaling mechanisms as an alternative to DTMF signaling.” *Universal Service Order*,  
14 ¶ 71. Western Wireless currently uses out-of-band digital signaling and in-band multi-frequency  
15 signaling that is functionally equivalent to DTMF signaling and, therefore, the Company meets this  
16 requirement.  
17

18           d.     Single-party service or its functional equivalent. “Single party service” means that  
19 only one party will be served by each subscriber loop or access line, in contrast to a multi-party  
20 line. A CMRS provider meets the requirement of offering single party service when it offers a  
21 dedicated message path for the length of a user’s particular transmission. 47 C.F.R. § 54.101(a)(4);  
22 *Universal Service Order*, ¶ 162. Western Wireless meets the requirement of single-party service by  
23 providing a dedicated message path for the length of all customer calls.  
24

25           e.     Access to emergency services. The fifth supported service is the ability to reach the  
26 appropriate public safety answering point (“PSAP”) by dialing “911.” 47 C.F.R. § 54.101(a)(5);  
27

1 *Universal Service Order*, ¶ 72. Enhanced 911, or "E911," which includes the capability of  
2 providing both automatic numbering information ("ANI") and automatic location information  
3 ("ALI"), is only required if a PSAP submits a compliant request to the carrier and makes  
4 arrangements with the local provider for the delivery of such information. Western Wireless  
5 currently provides all of its customers with access to emergency services by dialing 911 and stands  
6 ready to provide E911 service to its customers once a PSAP submits a compliant request for E911  
7 service. Although Western Wireless has not received any requests for Phase I or Phase II E911 in  
8 its currently proposed designated service areas in Arizona, the company will work with PSAPs  
9 within its designated service areas to make E911 service available according to federal  
10 requirements.

11  
12 f. Access to operator services. Access to operator services means any automatic or  
13 live assistance provided to a consumer to arrange for the billing or completion, or both, of a  
14 telephone call. 47 C.F.R. § 54.101(a)(6). Western Wireless meets this requirement by providing  
15 all of its customers with access to operator services provided by either the Company or other  
16 entities.

17  
18 g. Access to interexchange service. An ETC must offer consumers access to  
19 interexchange service for the purposes of making and receiving toll or interexchange calls. 47  
20 C.F.R. § 54.101(a)(7); *Universal Service Order*, ¶ 78. Equal access to interexchange service, i.e.  
21 the ability of a customer to access a presubscribed long distance carrier by dialing 1+number, is not  
22 required. *Universal Service Order*, ¶ 78; *see also July 2003 Order*, ¶¶ 14-15, 33; 47 U.S.C. §  
23 332(c)(8). Western Wireless presently meets this requirement by providing all of its customers  
24 with the ability to make and receive interexchange or toll calls through direct interconnection  
25  
26  
27

1 arrangements the Company has with several interexchange carriers ("IXCs"). Additionally,  
2 customers are able to reach their IXC of choice by dialing the appropriate access code.

3 h. Access to directory assistance. Access to directory assistance means the ability to  
4 place a call directly to directory assistance. 47 C.F.R. § 54.101(a)(8). Western Wireless meets this  
5 requirement by providing all of its customers with access to directory assistance by dialing "411" or  
6 "555-1212."

7  
8 i. Toll limitation for qualifying low-income consumers. An ETC must offer "toll  
9 limitation" services to qualifying Lifeline customers at no charge. FCC Rule 54.400(d) defines  
10 "toll limitation" as either "toll blocking" or "toll control" if a carrier is incapable of providing both,  
11 but as both "toll blocking" and "toll control" if a carrier can provide both. Toll blocking allows  
12 consumers to elect not to allow the completion of outgoing toll calls. Toll control allows  
13 consumers to specify a certain amount of toll usage that may be incurred per month or per billing  
14 cycle. 47 C.F.R. § 54.500(b)-(c). Western Wireless is not currently capable of providing toll  
15 control. Today, the Company offers toll-blocking services for Lifeline customers in States in which  
16 it has been designated as an ETC. Western Wireless will offer toll blocking to Arizona Lifeline  
17 customers, at no charge, in the designated areas, in satisfaction of federal requirements.  
18

19  
20 **C. Western Wireless Will Offer and Advertise the Availability of the Supported  
21 Services**

22 12. The third requirement for ETC designation is that the applicant advertise the  
23 availability of the supported services and charges using media of general distribution. 47 U.S.C.  
24 § 214(e)(1)(B). Western Wireless currently offers and advertises the federally supported services  
25 throughout its requested designated service areas, through several different media, including  
26 newspaper, television, radio, and billboard advertising. Western Wireless also maintains various  
27 retail store locations throughout its authorized service areas, which provide an additional source of

1 advertising. Once designated, Western Wireless will advertise the availability of and charges for its  
2 universal service offerings through media of general distribution.

3 **D. Western Wireless Will Comply With Service Area Requirements**

4 13. An applicant for ETC designation may be designated in an area served by a non-  
5 rural telephone company for a service area determined by the Commission. 47 U.S.C. § 214(e)(5).  
6 For areas served by a rural telephone company, Section 214(e)(5) of the Act provides that the  
7 ETC's designated service shall be the rural telephone company's study area. A rural telephone  
8 company's "study area" is generally defined as all of the company's existing certificated exchange  
9 area in a given State. *Universal Service Order*, ¶ 172, fn. 434. However, the FCC's rules  
10 recognize that the study area is subject to redefinition if the FCC and the Commission establish a  
11 different service area in accordance with 47 C.F.R. § 54.207(c)-(d).

12 14. Western Wireless seeks designation as an ETC in the rural study areas and non-rural  
13 wire centers identified on Attachment A and the rural wire centers identified on Attachment B.  
14 Western Wireless is currently licensed and provides signal coverage throughout these areas and will  
15 offer and advertise its universal service offerings throughout these designated service areas.

16 15. Western Wireless seeks immediate ETC designation in those rural telephone  
17 company study areas that it serves in their entirety, as well as the non-rural wire centers, as  
18 identified on Attachment A. But where Western Wireless does not serve the entire rural study area,  
19 Western Wireless seeks conditional ETC designation on a wire center basis for the rural telephone  
20 company identified on Attachment B, contingent on the FCC and the Commission establishing a  
21 different service area in accordance with 47 C.F.R. § 54.207(c)-(d). As a result, it is necessary in  
22 this proceeding for the Commission to redefine the service area from the study area to the wire  
23 center boundaries, pursuant to 47 C.F.R. § 54.207, to enable Western Wireless to meet the ETC  
24 requirements under 47 U.S.C. § 214(e). Western Wireless' request for ETC designation in the wire  
25 centers on Attachment B is subject to the redefinition of the service area for purposes of Western  
26 Wireless' designation in the area served by Verizon.  
27



1           16.     The Act and the FCC's regulations require the FCC and the State to act in concert to  
2 develop an alternative service area for an area served by a rural telephone company. The sole  
3 requirement in establishing a service area other than the study area is that the FCC and the State  
4 commission each give full consideration to the Joint Board's recommendations and explain their  
5 rationale for reaching a different conclusion. 47 U.S.C. §214(e)(5); 47 C.F.R. § 54.207(b);  
6 *Universal Service Order*, ¶ 187; *Virginia Cellular, LLC Petition for Designation as an Eligible*  
7 *Telecommunications Carrier In the Commonwealth of Virginia*, CC Docket 96-45, Memorandum  
8 Opinion and Order, FCC 03-338, ¶ 41 (rel. Jan. 22, 2004) ("*Virginia Cellular*"). As explained  
9 more fully below, redefining the service area standard for the Verizon service area in this  
10 proceeding is fully consistent with the Joint Board's recommendations. The Commission should  
11 grant Western Wireless' request for redefinition and file a petition with the FCC under 47 U.S.C. §  
12 54.207.

13           **E.     Western Wireless Should be Designated as an Additional ETC in Areas Served**  
14           **by Qwest**

15           17.     Western Wireless requests immediate designation in the areas served by Qwest, a  
16 non-rural telephone company. When designating an additional ETC in areas served by a non-rural  
17 telephone company, "a State commission shall upon its own motion or upon request designate a  
18 common carrier that meets the requirements of paragraph (1) as an eligible telecommunications  
19 carrier..." 47 U.S.C. § 214(e)(2) (emphasis added). As noted above, Western Wireless meets the  
20 requirements to be designated as an ETC. Western Wireless is a common carrier, provides the  
21 supported services required, and will meet all service and advertising obligations of an ETC.  
22 Under the Act, there are no further requirements for designation in non-rural areas. Therefore,  
23 Western Wireless should be designated in the areas served by Qwest.

24           **F.     Designation of Western Wireless as an Additional ETC for Areas Served by a**  
25           **Rural Telephone Company Serves the Public Interest**

26           18.     In areas served by a rural telephone company, the final requirement for ETC  
27 designation relates to the public interest. Section 214(e)(2) of the Act requires that the Commission

1 find, before designating an additional ETC in an area served by a rural telephone company, that the  
2 designation is in the public interest.

3 19. The public interest determination required for areas served by rural telephone  
4 companies under Section 214(e) of the Act depends on whether the proposed universal service  
5 offerings will promote competition, and if so whether consumers will ultimately realize benefits  
6 related to competition and the new services provided. The express purposes of the Act in this  
7 regard are as follows:  
8

9 To promote competition and reduce regulation in order to secure lower prices and  
10 higher quality services for American telecommunications consumers and encourage  
11 the rapid deployment of new telecommunications technologies.

12 Pub. L. No. 104-104, 110 Stat. 56 (1996) (emphasis added).

13 20. Competition in the telecommunications industry is, as a general matter, in the public  
14 interest, and the hallmark of a competitive marketplace is the maximization of consumer choice. It  
15 is also clear that the public interest is served where there is a reasonable expectation that  
16 competition may have beneficial impacts for consumers.

17 21. As it applies to the designation of an additional ETC in areas served by rural  
18 telephone companies, the public interest necessarily must focus on the benefits to the rural  
19 consumers.  
20

21 22. This Commission has already determined that designation of a wireless provider as  
22 an ETC in an area served by a rural telephone company is in the public interest, because it "will  
23 provide additional consumer choice, promote telephone subscribership for qualifying low-income  
24 [residents], may reduce health and safety risks associated with geographic isolation and further  
25 promotes access to basic telephone service." *In the Matter of Application of Smith Bagley, Inc., for*  
26 *Designation as an Eligible Telecommunications Carrier Under 47 U.S.C. §214(e)(2) and A.A.C.*  
27

1 R14-2-1203, Decision No. 63269 at 12 (rel. Dec. 15, 2000); *See Also In the Matter of Application*  
2 *of Smith Bagley, Inc., for Designation as an Eligible Telecommunications Carrier Under 47 U.S.C.*  
3 *§214(e)(2) and A.A.C. R14-2-1203*, Decision No. 63421 at 2 (rel. March 9, 2001).

4  
5 23. The Commission must also apply the public interest factor in a way that advances  
6 universal service as contemplated by the Act. Congress gave the FCC responsibility to create rules  
7 and policies "for the preservation and advancement of universal service." 47 U.S.C. § 254(b).  
8 States must respect and defer to those FCC determinations. States cannot use a public interest  
9 standard to affect a result contrary to FCC directives. The FCC, for example, has directed that a  
10 State cannot deny an application because a CMRS provider may not meet "the regulatory  
11 requirements that govern ILECs, including privacy, marketing, service provisioning, and service  
12 quality requirements, as well as carrier of last resort (COLR) obligations." *Universal Service*  
13 *Order*, ¶ 142. The Commission must always remain consistent with the Act and FCC directives as  
14 it makes the public interest determination under Section 214(e)(2).

15 24. To further these general principles of public interest, the Commission should utilize  
16 the following four-part standard to determine whether designating Western Wireless as an  
17 additional ETC in the areas served by Verizon is in the public interest:

- 18 a. Will the ETC designation facilitate competition in the provision of universal  
19 services to the benefit of Arizona's rural consumers?
- 20 b. Will the ETC designation advance universal service by bringing new  
21 telecommunications services to Arizona's rural consumers?
- 22 c. Will ETC designation promote the rapid deployment of new technologies in the  
23 rural areas of Arizona?
- 24 d. Will any rural LEC experience any significant adverse impact resulting from ETC  
25 designation so significant as to justify denying rural consumers the benefits of competition?
- 26  
27

a. **Granting ETC Designation Will Facilitate Competition to the Benefit of Consumers**

25. The benefits of competition are presumed – increased competition can be expected to lead to better service and the provision of new, innovative services.<sup>1</sup> Granting ETC status to Western Wireless in the areas served by Verizon will recognize the importance of allowing rural consumers a choice of providers for their telecommunications needs. Consumers should be able to choose services based on their own needs, and not just the service of the incumbent LEC. When the Commission designates a competing carrier as an additional ETC in areas served by a rural telephone company, rural consumers choose their service provider on the basis of the most advantageous pricing, services, service quality, customer service, and service availability. And because Western Wireless' network supports the provisions of data services, customers will be able to combine basic universal services with advanced services if they so desire. The benefits of increased competitive choice for consumers is in the public interest. *Virginia Cellular*, ¶ 29.

26. Having this choice is important to rural consumers because Western Wireless' universal service offerings will provide benefits not otherwise available from the landline LECs. For example, current service offerings by incumbent LECs have restricted local calling areas and are bound by the limitations of landline technology. Western Wireless's service offerings provide an expanded local calling area, which is of great benefit to rural consumers who otherwise have to pay toll charges to reach local government offices, health care providers, businesses or family outside of a restricted landline calling area. *See Universal Service Order*, ¶ 114. Western Wireless' service also provides the benefits of mobility, which has great appeal to many rural consumers. *Virginia Cellular*, ¶ 29. Western Wireless provides innovative service offerings that will be tailored to consumers' needs.

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<sup>1</sup> *In the Matter of Western Wireless Corp. Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, Memorandum Opinion and Order, DA 00-2896, ¶¶ 16-22 (rel. Dec. 26, 2000).

27. In addition to increased choices, Arizona's rural consumers can also expect lower rates and better service resulting from competition in the marketplace. Western Wireless provides 24-hour customer service, technical and operational support, which is more responsive than the support currently available from many rural LECs. In designating Western Wireless an ETC in Minnesota, the Minnesota Commission found that the designation would provide consumers with benefits of "affordability, reliability, and service quality" and noted that Western Wireless' "service would include specific features and enhancements not available, or available only at a premium, from the incumbents."<sup>2</sup> The Minnesota Commission further reasoned that Western Wireless' designation would further "at least three of the goals underlying federal and state policies favoring competition—customer choice, innovative services, new technologies." *Id.*

28. Western Wireless is committed to providing high service quality to its customers consistent with the public interest. Specifically, Western Wireless has adopted and complies with the Cellular Telecommunications and Internet Association ("CTIA") Consumer Code for Wireless Service, which sets forth certain principles, disclosures and practices for the provision of wireless service to the benefits of consumers.

29. The FCC has confirmed that competition and universal service are to be accomplished together, and that rural consumers are entitled to achieve universal service goals through the benefits of competition:

Commenters who express concern about the principle of competitive neutrality contend that Congress recognized that, in certain rural areas, competition may not always serve the public interest and that promoting competition in these areas must be considered, if at all, secondary to the advancement of universal service. We believe these commenters present a false choice between competition and universal service. A principal purpose of section 254 is to create mechanisms that will sustain universal service as competition emerges. We expect that applying the policy of competitive neutrality will promote emerging technologies that, over time, may provide competitive alternatives in rural, insular, and high cost areas and thereby benefit rural consumers. For this reason, we reject assertions that competitive

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<sup>2</sup> *Order Granting Preliminary Approval and Requiring Further Filings*, Minnesota Public Utilities Commission Docket No. P-5695/M-98-1285, p. 16 (Oct. 27, 1999).

1 neutrality has no application in rural areas or is otherwise inconsistent with section  
2 254.

3 *Universal Service Order*, ¶ 50 (emphasis added).

4 30. The FCC and other State commissions have considered and rejected speculative  
5 claims that competition will hurt rural consumers. The FCC has rejected arguments that the  
6 designation of an additional ETC in rural telephone company service areas would reduce  
7 investment in infrastructure, raise local service rates, reduce service quality to consumers, or result  
8 in loss of network efficiency:  
9

10 We reject the general argument that rural areas are not capable of sustaining  
11 competition for universal service support. We do not believe that it is self-evident  
12 that rural telephone companies cannot survive competition from wireless providers.  
13 Specifically, we find no merit to the contention that designation of an additional  
14 ETC in areas served by rural telephone companies will necessarily create incentives  
15 to reduce investment in infrastructure, raise rates, or reduce service quality to  
consumers in rural areas. To the contrary, we believe that competition may provide  
incentives to the incumbent to implement new operating efficiencies, lower prices,  
and offer better service to its customers.<sup>3</sup>

16 Faced with claims that rural LECs could not respond to competition and would go out of business,  
17 the Minnesota Commission also found it more likely that competition would “perform its widely  
18 recognized function of motivating the incumbents to find and implement new operating  
19 efficiencies, lowering prices and offering better service in the process.”<sup>4</sup> Similarly, the Washington  
20 Commission dismissed as “overly speculative” rural LEC concerns that ETC designation would  
21 erode universal service for consumers.<sup>5</sup>  
22

23 <sup>3</sup> *In the Matter of Western Wireless Corporation Petition for Designation as an Eligible*  
24 *Telecommunications Carrier In the State of Wyoming*, CC Docket No. 96-45, Memorandum  
Opinion and Order, DA 00-2896 ¶ 22 (rel. Dec. 26, 2000) (“*Wyoming Order*”).

25 <sup>4</sup> *Order Granting Preliminary Approval and Requiring Further Filings*, Minnesota Public  
26 Utilities Commission Docket No. P-5695/M-98-1285, p. 17 (Oct. 27, 1999).

27 <sup>5</sup> *Third Supplemental Order Granting Petition for Designation as Eligible*  
*Telecommunications Carrier*, Washington Utilities and Transportation Commission Docket No.  
UT-970345, p. 13 (Jan. 2000).

b. **Granting ETC Designation Will Advance Universal Service by the Provision of New Telecommunications Services to Rural Consumers**

31. Granting Western Wireless ETC status in the areas served by Verizon will improve choices for rural consumers, thereby advancing universal service for Arizona residents. Different services, improved quality and lower rates not only give the consumer additional options, but also make it more likely that high cost areas of the State will have affordable phone service as implicit subsidies are phased out. In addition, the designation of Western Wireless as an ETC may allow those consumers who are not currently receiving telephone service of any kind an opportunity to obtain telephone service for the first time. *Virginia Cellular*, ¶ 29. There is simply no question that the designation of Western Wireless as an ETC will advance universal service by increasing consumer choices and bringing new telecommunications services to rural areas consistent with the public interest.

c. **Granting ETC Designation Will Promote The Deployment of New Telecommunications Technologies**

32. Designating Western Wireless an ETC in the areas served by Verizon will also lead to the further deployment of Western Wireless' cellular network, which will be available to benefit Arizona's rural consumers. Western Wireless is a facilities-based telecommunications provider serving a substantial portion of the State utilizing state-of-the-art wireless technology.

33. Western Wireless' network used to provide the supported services will also have the capability of providing advanced services that meet or exceed what can be provided on a landline network. The Commission should continue to facilitate the development of the Western Wireless network so that Arizona's rural consumers will have access to these developing technologies to the same degree as urban consumers.

34. Designation of Western Wireless as an ETC in the areas served by Verizon will also provide an incentive for the incumbent LECs to invest in new technologies and additional

1 infrastructure, which likewise will benefit the consumers. Ultimately, the Commission should  
2 apply the public interest factor in a way that will bring providers and new technologies to rural,  
3 high cost areas, consistent with the FCC's stated goals.

4 **d. No Rural LEC Will Experience Any Significant Adverse Impact from Western**  
5 **Wireless' ETC Designation to Justify Denying Consumers the Benefits of**  
6 **Competition**

7 35. The designation of Western Wireless as an ETC will not result in any significant  
8 adverse impact to any rural telephone company. None of the areas in which Western Wireless is  
9 seeking designation is incapable of supporting more than one ETC.

10 36. Under the current funding mechanisms, rural telephone companies will continue to  
11 receive funding based on an embedded cost methodology until 2006. This extended transition  
12 period – as well as their continued receipt of implicit subsidies within intrastate access rates –  
13 ensures the rural companies can move successfully to competitive markets.

14 37. Western Wireless' designation will also ensure the continued affordability of  
15 telecommunications services in rural areas in Arizona. Western Wireless competitively markets a  
16 variety of service offerings, and Western Wireless' service plans are offered to rural customers at  
17 the same rates offered in urban areas.

18 38. Western Wireless' designation will not adversely burden the federal universal  
19 service fund.

20 39. Accordingly, designation of Western Wireless as an ETC will serve the public  
21 interest.

22 **III. REDEFINITION OF SERVICE AREA**

23 40. Western Wireless' request for ETC designation in the area served by Verizon is  
24 subject to the Commission's action to redefine the service area from the study area to the wire  
25 center level. As stated above, the Act and the FCC's rules provide that the service area of a rural  
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1 telephone company shall be the "study area" of the rural telephone company, until and unless the  
2 FCC and the State commission both agree to redefine the service area. 47 U.S.C. § 214(e)(5); 47  
3 C.F.R. § 54.207(b). Federal rules provide the mechanism in which the FCC will process a request  
4 by a State commission for redefinition of a service area standard. 47 C.F.R. § 54.207. The  
5 decision to redefine the service area must be made after taking into account recommendations of  
6 the Federal-State Joint Board. *Id.*

7  
8 **A. Redefining the Service Area Is Consistent With Joint Board Standards**

9 41. The FCC identified three factors initially recommended by the Joint-Board, which  
10 should be considered by the Commission and the FCC when determining the appropriateness of  
11 redefining the service area to less than the study area level: the risk of cream skimming, the effects  
12 on the rural telephone company's regulatory status, and any additional administrative burdens.

13 42. This Commission has used the three factors articulated by the FCC and has  
14 allowed redefinition of the service area from the study area level to the wire  
15 center. existing cellular service area. *In the Matter of Application of Smith*  
16 *Bagley, Inc., for Designation as an Eligible Telecommunications Carrier*  
17 *Under 47 U.S.C. § 214(e)(2) and A.A.C. R14-2-1203*, Decisions No. 63269  
18 at 9-10 (rel. Dec. 15, 2000).

19  
20  
21 **(i) The Risk of Cream Skimming**

22 43. The first factor is the risk that a competitor would selectively target service only to  
23 the lowest cost areas of the rural LEC's study area, a process labeled as "cream-skimming." The  
24 FCC noted that if a competitor were required to serve a rural telephone company's entire study  
25 area, the risk of "cream-skimming" would be reduced because a competitive ETC would be  
26  
27

1 prevented from selectively targeting service only to the lowest cost exchange of the rural ILEC's  
2 study area. *Universal Service Order*, ¶ 189. As the Joint Board explained:

3 We note that some commenters argue that Congress presumptively retained study  
4 areas as the service area for rural telephone companies in order to minimize "cream  
5 skimming" by potential competitors. Potential "cream skimming" is minimized  
6 because competitors, as a condition of eligibility, must provide services throughout  
7 the rural telephone company's study area. Competitors would thus not be eligible  
8 for universal service support if they sought to serve only the lowest cost portions of  
9 a rural telephone company's study area.<sup>6</sup>

10 44. The risk of "cream-skimming" has been substantially eliminated by subsequent FCC  
11 action. Under the FCC's existing universal service support mechanisms, a rural telephone  
12 company receives high-cost universal service support based on the average of its embedded costs  
13 throughout the carrier's entire study area. *See* 47 C.F.R. §§ 54.301 and 54.303. As a result, a rural  
14 telephone company's support on a per-line basis will be the same throughout its study area even  
15 though the costs of serving customers in that study area may vary widely. This averaging may  
16 create "artificial barriers to competitive entry in the highest-cost areas and artificial entry incentives  
17 in relatively low-cost portions of a rural carrier's study area" because a competitor may try to serve  
18 only the low-cost, high-support areas and ignore the more costly areas to serve.<sup>7</sup>

19 45. To minimize the opportunity for such cream-skimming, the FCC offered rural  
20 telephone companies the option to "disaggregate" – *i.e.*, target – the federal universal service  
21 support amounts they receive to the higher-cost portions of their study areas. In so doing, rural  
22

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23 <sup>6</sup> *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket 96-45, 12  
24 FCC Rcd. 87, ¶ 172 (rel. Nov. 8, 1996) ("*Joint Board Recommendations*").

25 <sup>7</sup> *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45,  
26 and *In the Matter of Multi-Association Group (MAG) Plan for Regulations of Interstate Services of*  
27 *Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No.  
00-256, *Fourteenth Report and Order*, *Twenty-Second Order on Reconsideration*, and *Further*  
*Notice of Proposed Rulemaking in CC Docket No. 96-45 and Report and Order in CC Docket No.*  
00-256, FCC 01-157, ¶ 144-164 (rel. May 23, 2001) ("*Fourteenth Report and Order*").

1 carriers were given the opportunity to disaggregate and target support – if they were truly concerned  
2 about cream-skimming – to ensure that a competitive ETC would receive less per-line support in  
3 low-cost areas and, conversely, to ensure that a competitive ETC would only receive higher per-line  
4 support in truly high-cost portions of their study areas. Thus, the risk of cream-skimming by an  
5 ETC applicant seeking designation for less than the study area has been practically eliminated  
6 because the incumbent rural telephone company can utilize the disaggregation process to target its  
7 per-line support to better reflect the actual costs of serving different areas throughout its entire  
8 study area. As the FCC noted:  
9

10 Rural telephone companies . . . now have the option of disaggregating and targeting  
11 high-cost support below the study area level so that support will be distributed in a  
12 manner that ensures that the per-line level of support is more closely associated with  
13 the cost of providing service. Therefore, any concern regarding “cream-skimming”  
14 of customers that may arise in designating a service area that does not encompass  
15 the entire study area of the rural telephone company has been substantially  
16 eliminated.<sup>8</sup>

15 **(ii) The Effect Redefinition May Have on the Rural Telephone Company's  
16 Regulatory Status**

16 46. The second factor a State commission and the FCC must consider is the regulatory  
17 status enjoyed by rural telephone companies under the Act. The FCC determined that initially  
18 establishing a service area based on the study area of a rural telephone company was appropriate, at  
19 least temporarily, in recognition of the different treatment afforded to smaller rural telephone  
20 companies which are exempt from certain of the Act's requirements. *Universal Service Order*,  
21 ¶ 189; *Virginia Cellular*, ¶ 41. In making its recommendation, the Joint Board had reasoned:  
22  
23  
24

25 <sup>8</sup> See *In the Matter of Federal-State Joint Board on Universal Service Petitions for*  
26 *Reconsideration of Western Wireless Corporation's Designation as an Eligible*  
27 *Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, *Order on*  
*Reconsideration*, FCC 01-311, ¶ 12 (rel. Oct. 19, 2001) (“*Western Wireless Reconsideration*  
*Petition*”).

For example, rural telephone companies are initially exempt from the interconnection, unbundling, and resale requirements of 47 U.S.C. § 251(c). The 1996 Act continues this exemption until the relevant state commission finds, inter alia, that a request of a rural telephone company for interconnection, unbundling, or resale would not be unduly economically burdensome, would be technically feasible, and would be consistent with section 254. Moreover, while a state commission must designate other eligible carriers for non-rural areas, states may designate additional eligible carriers for areas served by a rural telephone company only upon a specific finding that such a designation is in the public interest.

*Joint Board Recommendations*, ¶ 173.

47. Like the risk of cream-skimming, the risk that redefinition of the service area would compromise or impair the incumbent's unique regulatory treatment under Section 251(f) of the Act has proven to be immaterial. Nothing in the service area redefinition process of an ETC applicant affects the rural carrier's statutory exemptions from interconnection, unbundling and resale requirements under 47 U.S.C. § 251(c). Likewise, the service area redefinition process does not affect the application of Section 214(e)(2)'s public interest analysis to the designation of an additional ETC in the rural telephone company's service area. The Act's public interest factor thus remains an effective check to prevent the designation of a competitive ETC who may otherwise pose a detriment to the rural consumers in those service areas. As the FCC has recognized, the continued existence of the public interest standard is a safeguard available to a state commission to support a redefinition request. *Universal Service Order*, ¶ 190.

48. In addition, the redefinition process does not affect the way in which a rural ETC calculates its embedded costs or the amount of per-line support it receives. Thus, the incumbent ETC will retain its unique regulatory status as a rural telephone company under the Act consistent with the Joint Board's recommendations.

**(iii) Additional Administrative Burdens Resulting from Redefinition**

49. The third factor to be considered is whether any administrative burdens might result from redefinition of the service area standard. A rural telephone company's universal service support payments are currently based on a rural company's embedded costs determined at the study area level. *Universal Service Order*, ¶ 189. The Joint Board initially expressed concern that rural

1 telephone companies might have difficulty calculating costs on a less-than-study area level. The  
2 Joint Board stated:

3 Another reason to retain existing study areas is that it is consistent with our  
4 recommendation that the determination of the costs of providing universal service  
5 by a rural telephone company should be based, at least initially, on the Company's  
6 embedded costs. Rural telephone companies currently determine such costs at the  
7 study area level. We conclude, therefore, that it is reasonable to adopt the current  
8 study areas as the service areas for rural telephone companies rather than impose the  
9 administrative burden of requiring rural telephone companies to determine  
10 embedded costs on a basis other than study areas.

11 *Joint Board Recommendations*, ¶ 174.

12 50. Despite its initial decision to adopt the study area as the service area standard for a  
13 rural telephone company, the FCC has now stated a policy favoring redefinition in instances where  
14 a rural carrier's study area is large and/or non-contiguous. The FCC has expressly urged State  
15 commissions to explore redefinition for purposes of ETC designations when competitive ETCs and  
16 wireless carriers might not be able to provide facilities-based service throughout a rural company's  
17 entire study area. The FCC cautioned that requiring a new entrant to serve a non-contiguous  
18 service area as a prerequisite to ETC eligibility would impose a "serious barrier to entry,  
19 particularly for wireless carriers" and would be "particularly harmful to competition in rural areas,  
20 where wireless carriers could potentially offer service at much lower costs than traditional wireline  
21 service." *Universal Service Order*, ¶ 190.

22 51. In addition, this Commission has previously determined that redefinition would not  
23 impose an administrative burden in rural telephone companies since it will not impact the  
24 calculation of costs on a study area basis. *In the Matter of Smith Bagley, Inc. for Designation as an*  
25 *Eligible Telecommunications Carrier Under 47 U.S.C. §214(e)(2) and A.A.C. R14-2-1203,*  
26 *Decision No. 63269 at 11 (rel. Dec. 15, 2000).*  
27

1           52.     Western Wireless recommends that the Commission redefine the service area for the  
2 area served by Verizon from its study area to the boundaries of the individual wire center for  
3 purposes of designating Western Wireless as an ETC under 47 U.S.C. § 214(e). Verizon's study  
4 area contains multiple wire centers. In all, Verizon's study area contains 6 separate wire centers.  
5 The most logical and appropriate method of redefinition is by individual wire centers. Redefining  
6 the service area into 6 separate service areas based on individual wire centers for purposes of ETC  
7 designations will promote competition by eliminating a barrier to entry into the universal service  
8 market. This approach also would enable Western Wireless to be designated a federal ETC in the  
9 wire centers within its existing licensed and signal coverage area consistent with the public interest  
10 determination of the Commission.

11           53.     The Commission can proceed to redefine the service area to a wire center while  
12 appropriately taking into account the three factors noted by the Joint Board and adopted by the  
13 FCC. The first factor, relating to the risk of cream-skimming, is not present. Western Wireless  
14 seeks redefinition of the service area standard to an individual wire center basis so it can be  
15 designated as an ETC in those areas for which it is licensed and has the ability to provide facilities-  
16 based services. Moreover, redefining the service area to the wire center level basis will not result  
17 in any effects of cream-skimming based on a consideration of the relative high cost and low cost  
18 wire centers within the incumbent's study area. *Virginia Cellular*, ¶ 42. Redefinition to an  
19 individual wire center basis will also preserve and advance universal service by establishing  
20 designated service areas that are more reflective of the areas actually served. Redefinition furthers  
21 competition and protects the incumbents from selective targeting of specific wire centers with the  
22 lowest cost and highest support. In short, there will be no opportunity for cream-skimming.  
23  
24  
25  
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27

1           54.     The second Joint Board factor relating to the special status of rural LECs can also  
2 appropriately be taken into account by redefining the to the wire center. Redefinition to an  
3 individual wire center basis will not compromise or impair the unique treatment of Verizon as a  
4 rural telephone company under Section 251(f) of the Act. Consequently, Verizon will still retain  
5 the statutory exemptions from interconnection, unbundling and resale requirements under 47  
6 U.S.C. § 251(c) even if the service area standard is redefined for purposes of Western Wireless'  
7 ETC designation. Moreover, redefinition will not affect the total amount of high-cost support that  
8 an incumbent rural telephone company will receive. *Virginia Cellular*, ¶ 43.

10           55.     The Act's public interest factor for the designation of an additional ETC in the  
11 service areas of rural telephone companies under 47 U.S.C. § 214(e)(2) will also remain in place.  
12 The continued existence of the public interest standard was noted by the FCC as a safeguard  
13 available to a State commission to support a redefinition request for service areas to less than a  
14 study area level. *Universal Service Order*, ¶ 190. This public interest factor will remain as an  
15 effective check to prevent the designation of an additional competitive ETC who may seek to target  
16 only low cost areas or otherwise pose a detriment to the rural consumers of the incumbents. Thus,  
17 the incumbent LEC will retain its unique status and special treatment as a rural telephone company  
18 under the Act consistent with the Joint Board's recommendations if the service area standard were  
19 redefined to an individual wire center basis.

22           56.     The third and final Joint Board factor relating to the administrative ease of  
23 calculating the costs of the rural telephone companies on a less-than-study area level is likewise not  
24 an issue. There are no administrative costs to consider because any federal universal service  
25 support available to a competitive ETC in an area served by Verizon would be determined based on  
26 the per-line support available to the company itself. 47 C.F.R. § 54.307(a). Moreover, this current  
27

1 funding mechanism will remain in place for at least another three years, when the FCC is expected  
2 to make changes to the funding mechanism for rural telephone companies. Moreover, redefining  
3 the service area will not require any rural telephone company to determine their costs for purposes  
4 of universal service support on a basis other than the study area level. *Virginia Cellular*, ¶ 44.

5 57. Accordingly, the Commission should act to redefine the service area for the area  
6 served by Verizon to the individual wire center basis in order to foster competition and bring new  
7 telecommunications services to rural Arizona. Consistent with the factors articulated by the FCC  
8 based on the Joint Board's recommendations, the Commission should order the redefinition of the  
9 service area standard for the area served by Verizon to the wire center boundaries.

11 **B. Redefinition is Necessary to Promote Competition and Advance Universal**  
12 **Service**

13 58. The redefinition of the service area is also necessary for the promotion of  
14 competition and to advance universal service. The rural telephone company is certificated to  
15 provide service in 6 wire centers in Arizona. At present, Western Wireless is licensed and provides  
16 the FCC's supported services in 5 of the 6 wire centers. Unless the service area standard is  
17 redefined, Western Wireless is precluded from being designated as an ETC in any of the 6 wire  
18 centers because Western Wireless cannot serve throughout the entire study area. When, as here, the  
19 study area of a rural telephone company stretches beyond the license or coverage scope of the  
20 competitive ETC applicant, it is practically impossible to compete. This is not an issue of cream-  
21 skimming. It is simply the result of the practical limits of Western Wireless' authorized service  
22 boundaries.  
23

24 59. The redefinition of the service area from the study area to the individual wire center  
25 level is necessary to promote competition and advance universal service. Redefinition is in the  
26 public interest because it will enable Western Wireless, and other competitors, to bring new  
27



1 services and new technologies to customers of Arizona's rural telephone companies, who now have  
2 no choice of universal service providers. Unless the Commission establishes a different definition  
3 of the service area for the companies in this proceeding, those study areas will pose a barrier to  
4 entry not only for Western Wireless, but also any other competitive carrier, especially cellular  
5 providers, seeking ETC status. Because competitor and incumbent service territories are  
6 geographically different, it would be nearly impossible for any other competitive carrier to  
7 compete.  
8

9 60. These large and non-contiguous study areas create a disincentive to competition.  
10 The Washington Utilities and Transportation Commission appropriately recognized this type of  
11 barrier to entry when it successfully petitioned the FCC to redefine the study areas of rural LECs in  
12 its State. The Washington Commission noted: "The designation of the service area impacts the  
13 ease with which competition will come to rural areas . . . . The wider the service area defined by the  
14 state commission, the more daunting the task facing a potential competitor seeking to enter the  
15 market."<sup>9</sup> The Washington Commission concluded that smaller service areas for the designation of  
16 ETCs in rural areas will promote competition and speed deregulation. *Id.* at 9.  
17

18 61. The FCC has previously determined that redefinition of the service area to the  
19 individual wire center facilitates local competition by enabling new providers to serve relatively  
20 small areas. *FCC Decision on Washington Disaggregation*, ¶ 8. The FCC noted: "We find that  
21 our concurrence with rural LEC petitioners' request for designation of their individual exchanges as  
22 service areas is warranted in order to promote competition." *Id.* The FCC concluded that  
23  
24

25  
26 <sup>9</sup> Washington Util. & Transp. Comm'n, Docket No. 970380, *Petition for Agreement With*  
27 *Designation of Rural Company Eligible Telecommunications Carrier Service Areas at the*  
*Exchange Level and for Approval of the Use of Disaggregation of Study Areas for the Purpose of*  
*Distributing Portable Federal Universal Service Support*, at 3, (Aug. 1998).

1 Washington's "effort to facilitate local competition justifies [the FCC's] concurrence with the  
2 proposed service area designation." *Id.*

3 62. The redefinition of the service area from the study area to individual wire centers  
4 will foster competition in Arizona. Redefinition will enable Western Wireless and other carriers to  
5 offer competitive universal services to the customers of the rural telephone company. This  
6 fostering of competition comports with the goals of the Act and the FCC's directives. Accordingly,  
7 this Commission should order that the service area for the area served by Verizon be redefined  
8 from the study area to an individual wire center basis for ETC designation purposes.  
9

#### 10 IV. CONCLUSION

11 63. The Act establishes clear, consistent and competitively fair mechanisms for allowing  
12 carriers, including a CMRS provider, to be designated as an ETC for the purpose of federal  
13 universal service support. Western Wireless provides the supported services, satisfies all  
14 applicable requirements, and can and will meet the obligations of an ETC. For rural customers,  
15 Western Wireless' designation as an additional ETC will bring new technology, lower rates, and  
16 better service, and so is clearly in the public interest.  
17

18 64. Western Wireless respectfully requests the Commission to follow the directives and  
19 principles of the Act and to grant its Application by issuing an order designating Western Wireless  
20 as an ETC in the study areas of the rural telephone companies and non-rural wire centers listed on  
21 Attachment A pursuant to 47 U.S.C. § 214(e). Western Wireless further requests an order  
22 conditionally designating Western Wireless as an ETC in the rural telephone company wire centers  
23 as set forth in Attachment B subject to the Commission redefining the service area from the study  
24 area to the wire center level for the area served by Verizon, consistent with the purposes of 47  
25 C.F.R. § 54.207.  
26  
27

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RESPECTFULLY SUBMITTED this 26<sup>th</sup> day of March, 2004.

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STATE OF WASHINGTON )  
 ) ss.  
County of King )

That I am Executive Director, External Affairs of WWC License LLC, and as such am authorized to make this verification on its behalf; that I have read the foregoing Application; that I know the contents thereof; and that the matters stated in the foregoing Application are true and correct to the best of my knowledge.

John H. Ball

---

**Notary Public**

1-8-08



**ATTACHMENT A**

**Rural Telephone Company Study Areas for Which Western Wireless Seeks ETC  
Designation**

<b><u>Company Name</u></b>	<b><u>Study Area Code</u></b>
RIO VIRGIN TELEPHONE CO., INC.	552356
SOUTHWESTERN TELEPHONE CO.	452174

**Non-Rural Telephone Company Wire Centers for Which Western Wireless Seeks ETC  
Designation**

<b>Company Name</b>	<b>Wire Center Locality</b>	<b>Wire Center Code</b>
QWEST CORPORATION	Somerton	SMTNAZMA
QWEST CORPORATION	Wellton	WLTNAZMA
QWEST CORPORATION	Yuma	YUMAAZFT
QWEST CORPORATION	Yuma	YUMAAZMA
QWEST CORPORATION	Yuma	YUMAAZSE

**ATTACHMENT B**

**Rural Telephone Company Wire Centers for Which Western Wireless Seeks Conditional  
ETC Designation Subject to Redefinition of the Service Area**

<b><u>Company Name</u></b>	<b><u>Wire Center Locality</u></b>	<b><u>Wire Center Code</u></b>
VERIZON CALIFORNIA INC.	Bouse	BOUSAZXC
VERIZON CALIFORNIA INC.	Cibola	CIBLAZXC
VERIZON CALIFORNIA INC.	Ehrenberg	EHRNAZXF
VERIZON CALIFORNIA INC.	Parker	PRKRAZXC
VERIZON CALIFORNIA INC.	Poston	PSTNAZXC